



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
124 Halsey Street, 2nd Fl.
P. O. Box 45030
NEWARK, NEW JERSEY 07101

PHILIP D. MURPHY
Governor

ELIZABETH MAHER MUOIO
State Treasurer

SHEILA Y. OLIVER
Lt. Governor

JOHN J. FICARA
Acting Director

TELEPHONE (973) 648-4700 / FACSIMILE (973) 648-7072

January 23, 2023

Mr. Antoine Martel
Martel Fund llc
3131 NE 1st Avenue
Miami, FL 33301
etienne@martelturnkey.com

Re: The Martel Group of Companies

Dear Mr. Martel,

I am writing to inform you that the Martel Group of Companies has established nexus, a physical presence in the State of New Jersey by virtue of conducting business within the state. As a result, the firms must file and pay Corporation Business Tax (CBT) and any other attributable taxes to demonstrate such business activities. For example, Sales and Use tax and GIT-Payroll Withholding tax.

Please contact directly at (609) 306-2127 to discuss immediate business registration to secure tax compliance for firms associated with the Martel Group of Companies.

I am available daily from 8:30AM – 4:00PMEST.

For your reference I have attached publications and applicable statutes that define New Jersey nexus.

Those publications are:

1. Nexus for Corporation Business Tax TB-79(R)
2. Nexus for Sales and Use Tax TB-78(R)
3. NJ 550 Monthly Return of Withholding from Unregistered Unincorporated Contractors
4. Notice: Gross Income Tax



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MARTEL FUND LLC
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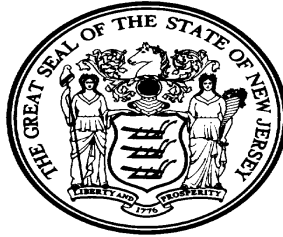
Mr. Martel, thank you for your time and attention. Please contact me directly at (609) 306-2127 to initiate discussions.

Sincerely,

Jennifer Tuory

Investigator
Newark Regional Office

Ref: Martel Fund llc



STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION

STATUTES

N.J.S.A. 54:49-7; 54:10A-2,4,5, & 34
CORPORATION BUSINESS TAX

N.J.S.A. 54:32B-1 *et seq*
SALES & USE TAX

GROSS INCOME TAX STATUTES: N.J.S.A. 54A:7-1 *et seq*
(withholding requirement)
N.J.S.A. 54A:5-8 (non-residents)
N.J.S.A. 54A:9-14 (JAS)

N.J.S.A. 54:49-7, 54:49-5
ARBITRARY ASSESSMENT

N.J.S.A. 54:50-2 EXAMINATION OF RECORDS AND PREMISES

N.J.S.A. 2C:29-1 OBSTRUCTING ADMINISTRATION OF LAW OR OTHER
GOVERNMENTAL FUNCTION

NEW JERSEY DIVISION OF TAXATION

SPECIAL PROJECTS UNIT
124 HALSEY STREET, 2ND FLOOR
NEWARK, NJ 07102





Nexus for Corporation Business Tax

TB-79(R) – Issued August 13, 2015
Tax: Corporation Business Tax

This Technical Bulletin provides general guidelines for determining whether the activities of a corporation create nexus with New Jersey for the purposes of imposing the Corporation Business Tax.

CORPORATION BUSINESS TAX NEXUS

The New Jersey Corporation Business Tax Act requires every domestic or nonresident corporation to pay an annual franchise tax for the following privileges:

1. Having or exercising its corporate franchise in this State;
2. Deriving receipts from sources within this State;
3. Engaging in contacts within this State;
4. Doing business, having employees, owning capital or property, or maintaining an office in this State.

A foreign corporation has a corporate franchise in this State if:

1. It has registered with the New Jersey Department of Revenue and Enterprise Services; and/or
2. Holds a certificate, license, or other authorization issued by any other State department or agency authorizing the company to engage in corporate activity in this State.

In determining whether a corporation is doing business in New Jersey, consideration is given to such factors as:

1. The nature and extent of the activities of the corporation in New Jersey;
2. The location of its offices and other places of business;
3. The continuity, frequency, and regularity of the activities of the corporation in New Jersey;
4. The employment in New Jersey of agents, officers, and employees;
5. The location of the actual seat of management or control of the corporation.

Public Law 86-272. The Federal Interstate Income Act, Title 15 U.S.C.A. Section 381, "Public Law 86-272," prohibits a state from imposing a net income based tax on income of a foreign corporation earned within its borders from interstate commerce, if the corporation's only business activity within the state consists of the solicitation of orders by the corporation or its representatives of tangible personal property, the orders are sent outside the state for approval and, if approved, are filled by shipment or delivery from a point outside the state.

A foreign corporation that conducts business activity in New Jersey that exceeds the protection of Public Law 86-272 is subject to the Corporation Business Tax as measured by the net income of the corporation. Even though a corporation's activities may be protected by Public Law 86-272, if it is registered or otherwise has nexus in New Jersey, it is subject to the Corporation Business Tax minimum tax and must file a Corporation Business Tax return.

1. Repairs, maintenance, and installations;
2. Collection or repossession activities;
3. Credit investigations;
4. Conducting training courses, seminars, or lectures for personnel (other than for personnel involved only in solicitation);
5. Providing technical assistance;
6. Resolving customer complaints for a purpose other than to ingratiate sales personnel with the customer;
7. Approving or accepting orders or securing deposits on sales;
8. Acquiring personnel for purposes other than solicitation activities;
9. Maintaining a display at a single location within New Jersey in excess of two weeks during the tax year;
10. Carrying samples for sale, exchange, or distribution in any manner for consideration or other value;
11. Picking up or replacing damaged or returned property;
12. Owning, leasing, or maintaining in-State facilities such as a warehouse or telephone answering service;
13. Consigning tangible personal property.

Further Information

Information about the Corporation Business Tax is available on the Division of Taxation website at <http://www.state.nj.us/treasury/taxation/corp.shtml>

Note: A Technical Bulletin is an informational document designed to provide guidance on a topic of interest to taxpayers and describe changes to the law, regulations, or Division policies. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the tax law or its interpretation may affect the accuracy of a Technical Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.



Nexus for Sales and Use Tax

TB-78(R) – Issued August 13, 2015
Tax: Sales and Use Tax

This Technical Bulletin provides general guidelines for determining whether the activities of a person create nexus with New Jersey for Sales and Use Tax purposes.

DEFINITIONS

"Nexus" means some definite link, some minimum connection, between the State and the entity it seeks to tax.

"Person" includes an individual, trust, partnership, limited partnership, limited liability company, society, association, joint stock company, corporation, public corporation or public authority, estate, receiver, trustee, assignee, referee, fiduciary, and any other legal entity.

"Seller" includes a person maintaining a place of business in the State or having an agent maintaining a place of business in the State and making sales, whether at such place of business or elsewhere, to persons within the State of tangible personal property, specified digital products, or services, the use of which is taxed by the Sales and Use Tax Act.

SALES TAX NEXUS

The U.S. Supreme Court has ruled that the Commerce Clause of the U.S. Constitution requires a person to have a physical presence in a state before the state can impose its Sales Tax jurisdiction.

A person who has physical presence in New Jersey and sells taxable items or services must register and collect and remit Sales Tax whenever such sales are completed by delivery of the item(s) to a New Jersey location or when performance of the service is within this State.

NEXUS-CREATING ACTIVITIES

Activities occurring in New Jersey that create nexus for Sales Tax purposes include, but are not limited to:

1. Selling, leasing, or renting tangible personal property, specified digital products, or services;
2. Maintaining an office, distribution house, showroom, warehouse, service enterprise (e.g., restaurant, entertainment center, business center, etc.), or other place of business;
3. Having employees, independent contractors, agents, or other representatives (including salespersons, consultants, customer representatives, service or repair technicians, instructors, delivery persons, and independent representatives or solicitors acting as agents of the business) working in the State;
4. Selling, storing, delivering, or transporting energy (natural gas or electricity) to users or customers;

5. Collecting initiation fees, membership fees, or dues for access to or use of health, fitness, athletic, sporting, or shopping club property or facilities;
6. Parking, storing, or garaging motor vehicles;
7. Delivering goods sold in seller's own vehicle.

CLICK-THROUGH NEXUS

N.J.S.A. 54:32B-2(i)(1) creates a rebuttable presumption that an out-of-State seller that makes taxable sales of tangible personal property, specified digital products, or services, is soliciting business and has nexus in New Jersey if that seller meets the following conditions:

1. The seller enters into an agreement with a New Jersey independent contractor or other representative for compensation in exchange for referring customers via a link on its website, or otherwise, to that out-of-State seller; and
2. The seller has sales from these referrals to customers in New Jersey in excess of \$10,000 for the prior four quarterly periods ending on the last day of March, June, September, and December.

An out-of-State seller that meets both of these conditions is presumed to be soliciting business and has nexus with New Jersey. The out-of-State seller must register for Sales Tax purposes and collect and remit Sales Tax on all sales delivered to New Jersey.

Because the law creates a rebuttable presumption, the out-of-State seller may provide proof that the independent contractor or representative did not engage in any solicitation on their behalf in New Jersey. The burden is on sellers to prove that they are not required to collect and remit Sales Tax.

REGISTERING FOR SALES TAX PURPOSES

A seller that has nexus with New Jersey must register and collect and remit Sales Tax on all taxable sales that occur within this State. The Business Registration Application (Form NJREG) can be filed online through the Division of Revenue and Enterprise Services' NJ Business Gateway Services website at <http://www.state.nj.us/treasury/revenue>.

MORE INFORMATION

For more information, see Technical Bulletin 76 "Presumption of Soliciting Business in New Jersey by Out-of-State Seller," <http://www.state.nj.us/treasury/taxation/pdf/pubs/tb/tb76.pdf>, Publication S&U-5, "Making Mail-Order and Internet Sales," <http://www.state.nj.us/treasury/taxation/pdf/pubs/sales/su5.pdf>, and Publication ANJ-10 "Out of State Sales & New Jersey Sales Tax," <http://www.state.nj.us/treasury/taxation/pdf/pubs/sales/anj10.pdf>

Note: A Technical Bulletin is an informational document designed to provide guidance on a topic of interest to taxpayers and describe changes to the law, regulations, or Division policies. It

Case: 1:23-cv-00273-BMB Doc. #: 2-3 Filed: 02/10/23 Page 9 of 14 PageID #: 54
is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the tax law or its interpretation may affect the accuracy of a Technical Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

STATE OF NEW JERSEY -DIVISION OF TAXATION

Monthly Return of Withholding from Unregistered Unincorporated Contractors
(Required Pursuant to N.J.S.A. 54A:7-1.2 effective January 1, 2007)

New Jersey Taxpayer ID - - /	Taxpayer Name		Trade Name	
Withholding Month/Year /	Mailing Name			
This return and payment is due by the 15th day of the month following the month of withholding.	Mailing Address (number and street)			
	Mailing City	State	Zip Code	

Line 1. Number of Unregistered Unincorporated Contractors Reported _____

Line 2. Gross Amount Paid Subject to Withholding (from Schedule A below) \$ _____ . _____

Line 3. Total Amount Withheld (Multiply Line 2 by .07) \$ _____ . _____

Make Check Payable and State of New Jersey, Gross Income Tax
 Mail Return with Payment to: PO Box 629
 Trenton, NJ 08646-0629

Subject to the penalties of perjury, I hereby certify that this return, to the best of my knowledge and belief, is a true and correct statement.

Taxpayer Signature	Title	Date	Telephone
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SCHEDULE A - Summary of Unregistered Unincorporated Contractors Subject to Withholding (MUST BE COMPLETED)

Unregistered Unincorporated Contractor Social Security Number or FEIN	Contractor Name (Last, First, MI) (Please Print)	Gross Amount Paid		Amount Withheld	
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
Total Gross Amount Paid Enter total here and on Line 2. Gross Amount Paid Subject to Withholding above.		\$			
Total Amount Withheld Enter total here. Amount must agree with Line 3 Total Amount Withheld, calculated above.				\$	

SEE INSTRUCTIONS ON REVERSE SIDE

Effective January 1, 2007, entities making payments to unregistered unincorporated contractors for work performed in New Jersey are required to deduct and withhold tax from that compensation from any contractor who does not provide proof of registration (a Business Registration Certificate, Form BRC) from the New Jersey Division of Revenue.

The BRC may be obtained by the contractor by going online at: https://www1.state.nj.us/TYTR_BRC/jsp/BRCLoginJsp.jsp

Unregistered unincorporated contractors with no business tax or employer obligations may register using Form NJ-REG-A instead of Form NJ-REG in order to obtain the Business Registration Certificate with the New Jersey Division of Revenue by going online at: www.state.nj.us/treasury/revenue/gettingregistered.shtml

Individuals who have created and are operating as a business entity (e.g. LLC) and wish to register and obtain a Business Registration Certificate, may not use Form REG-A. They may submit Form NJ-REG online: www.state.nj.us/treasury/revenue/gettingregistered.shtml to register in order to obtain a Business Registration Certificate.

NJ-550 Filing and Payment

Filing and payment of amount withheld is required for each calendar month, in which payment is being made to unincorporated contractors not providing proof of registration described above. Form NJ-550 and associated payment, are due on or before the 15th day of the month following the close of the calendar month in which the payment was made.

General Instructions

Withholding Month/Year: Enter reporting month and year of any and all withholdings from payments to unregistered, unincorporated contractors. Example "02/2007" for reporting withholdings made during February 2007.

NJ Taxpayer ID: Enter your NJ Taxpayer Identification Number.

Taxpayer Name: Enter your taxpayer name.

Trade Name: Enter your trade name.

Mailing Name: Enter your mailing name.

Mailing Address: Enter your mailing street address.

Mailing City, State, Zip: Enter your mailing city, state, and zip code.

Instructions for Completing Schedule A - Summary of Unregistered Unincorporated Contractors Subject to Withholding

This section must be completed prior to NJ-550 return completion. Report the Social Security Number or FEIN, Contractor Name, Gross Amount Paid and Amount Withheld (7% required) for each unregistered unincorporated contractor paid during the reporting month. Summarize Gross Amount Paid (before withholding) Amounts and Amounts Withheld. Then complete Lines 1-3 of the NJ-550.

Line Item Instructions

- 1. Number of Unregistered Unincorporated Contractors Reported:** Enter the number of Unincorporated Contractors to whom payments were made during the monthly period which is being reported on this Monthly Return of Withholding from Unregistered Unincorporated Contractors.
- 2. Gross Amount Paid Subject to Withholding:** Enter the gross total amounts paid to unincorporated contractors from Line 1.
- 3. Total Amount Withheld:** Multiply the Gross Amount Paid Subject to Withholding (from Line 2) by .07. Place the resulting amount on Line 3 of this return.

Year End Requirements

Copies of 1099-MISC from payments made to unregistered unincorporated contractors, reporting the New Jersey Gross Income Tax Withheld in Box 16, State Tax Withheld, together with Schedule NJ-W-3-UNC, a reconciliation of income tax withheld, must be mailed to:
State of NJ - Gross income Tax
PO Box 629
Trenton, NJ 08646-0629
in February of the year following the reporting year.

Notice: Gross Income Tax

Withholding Requirement for Construction Contractor Services

Under Chapter 85, P.L. 2006, all persons and businesses, other than governmental entities, homeowners, or tenants, maintaining an office or transacting business in New Jersey and making a payment for services rendered to unregistered, unincorporated contractors – whether resident or nonresident – must deduct and withhold from the payment a tax equal to 7% of the amount paid

All persons and businesses include those that own real estate and contract with unregistered, unincorporated contractors for repair and construction services to buildings (rental properties, investment properties, etc.) not deemed as their principal residences.

For purposes of the new law:

Contractor means a person entering into a contract for services to construct, improve, alter, or repair a building, structure, or improvement to real property and includes a subcontractor, but shall not include professional services as defined in section 1 of P.L.1960, c.40 (C.17:16C-1).

Unincorporated contractor means an individual contractor or a contractor organized as a sole proprietorship, a partnership, or any other business form not taxable as a corporation for federal tax purposes.

Withholding on the remuneration is not required if the person making the payment has proof of the construction contractor's registration with the Division of Revenue and Enterprise Services – a unit of the New Jersey Department of Treasury. The person receiving the payment provides the proof of registration. A **Business Registration Certificate** serves as proof of a valid business registration with the Division of Revenue. Unincorporated Construction Contractors with no business tax or employer obligations may register with the Division of Revenue using **Form REG-A** instead of **Form NJ-REG** in order to obtain the **Business Registration Certificate**. For registered vendors, the New Jersey Division of Revenue's website will generate a printable Business Registration Certificate.

The online, printable Business Registration Certificate from the New Jersey Division of Revenue's website serves as proof of the construction contractor's registration with the Division of Revenue and should be retained by the person making the payment. The person making the payment should also provide the unregistered, unincorporated contractor with Federal Form 1099-MISC. If the payor is already an employer, it can utilize its regular Form 927/927-W to report and remit New Jersey income tax withheld from unregistered, unincorporated contractors. If the payor is not an existent employer,

it will file a **NJ-550** form. The year-end requirement for both types of payors is Schedule **NJ-W-3-UNC**, a reconciliation of income tax withheld.

The owner or lessor of real property to which construction or repair is being made who is required to deduct and withhold tax under the new law is also made liable for that contractor's withholding from a subcontractor, or the subcontractor's withholding from a lower-tier subcontractor on that contract. Failure to withhold and make payment to the Division of Taxation will result in the imposition of penalties currently provided for other failures to withhold income tax from employee pay. See N.J.S.A. 54A:7-6.

The contractor, subcontractor or lower tier subcontractor may be excused from withholding if they have proof of registration with the Division of Revenue. Property owners also are excused from liability with respect to subcontractors if the primary contractor, with whom the owner has a contract, has provided proof of the primary contractor's registration with the Division of Revenue to the owner. With regard to liability, if the primary contractor has not provided proof of registration with the Division of Revenue, the property owner will avoid liability with respect to the primary contractor and subcontractors by withholding the 7% income tax on the contract price for the entire job, unless provided with proof that the subcontractors are registered with the Division of Revenue.

For more information regarding income tax withholding, please contact the Customer Service Center in the Division of Taxation at (609) 292-6400. If you have questions regarding services subject to the New Jersey Unemployment Compensation Law, N.J.S.A. 43:21-1 et seq., you may contact the Division of Employer Accounts in the New Jersey Department of Labor and Workforce Development at (609) 777-4315.

Please continue to check this page. Additional information will be added as it becomes available.

Last Updated: Friday, 06/05/20



STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION



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INVESTIGATOR

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